

Functional Series 300: Acquisition and Assistance
ADS Chapter 322 - PROCUREMENT OF INSURANCE

Table of Contents

322.1	Authority.....	3
322.2	Objective.....	3
322.3	Responsibility	3
322.4	Definitions	4
322.5	POLICY	4
322.5.1	MARINE INSURANCE.....	4
E322.5.1	Marine Insurance	4
322.5.1a	Discrimination against U.S. Marine Insurance Providers	5
E322.5.1a	DISCRIMINATION AGAINST U.S. MARINE INSURANCE PROVIDERS.....	5
322.5.1b	GENERAL AVERAGE	6
E322.5.1b	General Average.....	6
322.5.1c	USE OF LOSS PAYMENTS	6
E322.5.1c	Use of Loss Payments	7
322.5.2	DEFENSE BASE ACT (DBA) INSURANCE	7
E322.5.2	Defense Base Act (DBA) Insurance.....	7
E322.5.2a	DBA Waiver List.....	8
322.5.3	MEDICAL EVACUATION INSURANCE (MEDEVAC).....	8
E322.5.3	Medical Evacuation Insurance (Medevac)	8
322.5.4	INSURANCE FOR OTHER THAN TRANSPORTATION OR TRANSPORTATION-RELATED SERVICES	8
E322.5.4	Insurance for Other Than Transportation or Transportation-Related Services.....	8
322.6	Supplementary Reference.....	8
	ADS 350, Supplementary Reference: SOAG Annex II, Section E.2, "Refunds"	
322.7	Mandatory Reference	8
	22 CFR 201.68	
	22 CFR 201.32	
	22 CFR 228.23	
	*CIB 00-07	

CIB 99-07
USAID Code Book

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322.1 Authority

1. Foreign Assistance Act of 1961, as amended, (FAA) Section 604(d), Marine Insurance.
2. 42 U.S.C. 1651, and following (Defense Base Act).

322.2 Objective

To explain insurance requirements for USAID-financed activities and USAID's competition requirement for procuring other insurance under direct contracts and subcontracts.

322.3 Responsibility

1. USAID Contracting Officers are responsible for including appropriate insurance provisions in all acquisition instruments where applicable.
2. The Bureau for Management, Office of Procurement, Transportation and Commodity Division, Transportation Branch (M/OP/TC/TRANS) is responsible for determining whether or not cooperating countries discriminate against certain marine insurance companies and coordinating resolution of **discrimination** claims. M/OP/TC/TRANS is responsible for taking appropriate action to ensure that commodities to be transported are insured against marine loss. M/OP/TC/TRANS is responsible for responding to **general average** claims made against uninsured shipments consigned directly to a Mission.
3. Technical Officers at USAID Missions are responsible for monitoring **cooperating country** programs to ensure compliance with USAID requirements and appropriate use of marine insurance loss proceeds.
4. The Bureau for Management, Office of Procurement, Evaluation Division (M/OP/E) is responsible for disseminating information about the contracted providers for Defense Base Act and medical evacuation insurance, and ensuring that the most current information is made available worldwide. M/OP/E is also responsible for obtaining waivers of the DBA requirements from the Department of Labor for third country nationals and cooperating country nationals, when necessary.
5. **Host Country** officials with decision-making authority under USAID commodity import programs are responsible for informing private

importers under commodity import programs that USAID funds may be used to finance marine insurance on USAID-financed commodity imports.

6. Importers are responsible under Commodity Import Programs (CIPs) for deciding whether to secure marine insurance and whether to seek USAID financing of such insurance. Importers are responsible for paying general average contributions on uninsured goods.

7. Other Federal Agencies - The General Services Administration (GSA) is responsible for handling general average claims for uninsured goods procured and shipped by GSA for USAID when a U.S. Government Agency is the consignee. The U.S. Department of Agriculture (USDA) is responsible for handling general average claims on Title II commodities shipped under USAID programs.

322.4 Definitions (See GLOSSARY [Word](#) | [PDF](#) | [HTML](#))

cooperating country
Defense Base Act Insurance
discrimination
general average
host country
Medevac Insurance
placed in

322.5 POLICY

The statements contained within the .5 section of this ADS chapter are the official Agency policies and corresponding essential procedures.

322.5.1 MARINE INSURANCE

It is the policy of USAID that all goods financed under contracts agreements be insured in U.S. dollars or any other freely convertible currency during ocean transportation, unless USAID agrees otherwise in writing. Marine insurance is optional for goods under Commodity Import Programs (CIPs), unless it is found that discrimination against U.S. marine insurance providers exists, then it is mandatory. **(See 322.5.1a)** Insurance on CIP goods must also be in U.S. dollars or any other freely convertible currency. USAID reserves the right to require marine insurance on shipments under CIPs.

E322.5.1 Marine Insurance

Unless otherwise authorized, USAID will finance premiums for marine insurance, including war risk, on USAID-financed commodities, only if:

- a) The insurance is **placed in** a country included in the authorized geographic code, provided that, if the code is any other than 000, the cooperating country itself shall be recognized as an eligible source;
- b) The insurance is placed either in accordance with the terms of the commodity purchase contract or on the written instructions of the importer;
- c) The insurance covers the period during which the commodities are in transit to the cooperating country, except that it may include coverage under a "warehouse-to-warehouse" clause;
- d) The premiums do not exceed the limitations contained in 22 CFR 201.68 (USAID Reg. 1) (**See Mandatory Reference, [22 CFR 201.68](#)**); and
- e) Loss payment proceeds are to be paid in U.S. dollars or other freely convertible currency.

322.5.1a Discrimination against U.S. Marine Insurance Providers

The Agency shall adhere to the marine insurance discrimination policy as set forth in 22 CFR 228.23 (USAID Reg. 1). (**See Mandatory Reference, [22 CFR 228.23](#)**)

E322.5.1a DISCRIMINATION AGAINST U.S. MARINE INSURANCE PROVIDERS

Following are the essential procedures for resolving complaints of marine insurance discrimination.

- 1) Specific complaints of discrimination shall be reported to the Bureau for Management, Office of Procurement, Transportation and Commodity Division, Transportation Branch (M/OP/TC/TRANS). M/OP/TC/TRANS shall refer complaints to the responsible program office in the USAID Mission for review and investigation.

If discrimination is found to exist, M/OP/TC/TRANS shall direct a letter, through the Mission, to the host country government requesting that action be taken to eliminate the discriminatory practices.

The host country shall be given a reasonable length of time to correct the problem, and shall be notified that, unless the

discrimination is removed, all USAID-financed shipments must be covered by marine insurance and such insurance must be placed in the United States with a company or companies authorized to do business in any state of the United States. Foreign-owned insurance companies licensed to do business in the United States (by any state) are treated the same as comparable U.S.-owned companies.

2) If the cooperating country has not removed the discriminatory measure after the deadline set by USAID, M/OP/TC/TRANS shall invoke the sanctions set forth in E322.5.1a, 1). M/OP/TC/TRANS shall request the USAID officials authorized to amend letters of commitment and other implementing documents to amend such documents to require that all commodities purchased by the discriminating country with USAID funds be insured in the United States against marine risk with a company authorized to do marine insurance business in the U.S.

322.5.1b GENERAL AVERAGE

Liability for general average assessment is a standard clause incorporated into all marine cargo insurance policies and is not an issue with regard to most USAID-financed shipments. If the shipment is insured, the insurer, not USAID, is liable for all general average assessments. If the shipment is uninsured, the importer, as consignee, is liable for all general average assessments. USAID reserves the option to use program funds for payment of general average on uninsured shipments at the request of the host country government.

E322.5.1b General Average

Insurers must obtain the consent of the host country prior to utilizing program funds, to the extent available, for payment of general average contributions, provided that USAID financed the ocean freight on the cargo in question.

322.5.1c USE OF LOSS PAYMENTS

Under Commodity Import Programs (CIPs), when USAID finances marine insurance, insurers must report to USAID loss payments exceeding \$10,000 paid to the Cooperating Country. The eligible source for goods financed by loss payments to repair or replace insured goods under CIPs is the geographic code originally authorized. For non-CIP transactions, the eligible source for goods financed by loss payments is geographic code 935 (**See Supplementary Reference, [USAID Code Book for a complete listing of geographic codes](#)**)

E322.5.1c Use of Loss Payments

Reporting of loss payments shall be in accordance with 22 CFR 201.32(c) (USAID Reg. 1). **(See Mandatory Reference, [22 CFR 201.32](#))**. If such loss payments are not used to procure any eligible commodities under the agreement, USAID shall request a refund of these payments from the host country. Where USAID does not finance the marine insurance and loss payments are not used in accordance with the agreement, USAID shall also request a refund from the host country under the standard provision in loan and grant agreements which provides the basis for a refund. **(See [ADS 350](#), Supplementary Reference: [SOAG Annex II, Section E.2, "Refunds"](#))**

322.5.2 DEFENSE BASE ACT (DBA) INSURANCE

Except for Personal Service Contracts (PSCs) and contracts exclusively for the furnishing of materials or supplies, USAID direct contracts and subcontracts involving performance overseas must provide for worker's compensation insurance as required by the Defense Base Act (DBA).

The DBA insurance requirement cannot be waived under any circumstances for U.S. citizens and permanent residents, or any persons hired from the United States. Concerning the applicability of the DBA to Third Country Nationals (TCNs) and Cooperating Country Nationals (CCNs), individuals from certain countries are exempt due to the fact that USAID has obtained a blanket waiver from the U.S. Department of Labor. **(See [E322.5.2a](#))** Individuals from non-exempt countries are to be treated as U.S. citizens for purposes of DBA insurance coverage, unless USAID obtains a waiver from the Department of Labor.

Individuals for whom the DBA requirements are waived must be covered by at least the locally or internationally mandated levels of workers' compensation and war hazard insurance.

E322.5.2 Defense Base Act (DBA) Insurance

- * Essential procedures for **Defense Base Act Insurance** are contained in Mandatory Reference, CIB **00-07** entitled, "Defense Base Act (DBA) Coverage and DBA Waiver List." **(See Mandatory Reference, [CIB 00-07](#))**

E322.5.2a DBA Waiver List

- * The current DBA waiver list is contained in Mandatory Reference, CIB 00-07 entitled "Defense Base Act (DBA) Coverage and DBA Waiver List." (See Mandatory Reference, [CIB 00-07](#))

322.5.3 MEDICAL EVACUATION INSURANCE (MEDEVAC)

All U.S. citizens, U.S. permanent resident aliens, and third country nationals (TCNs) working overseas under USAID direct contracts and subcontracts, including Personal Services Contracts (PSCs), must have medical evacuation (medevac) coverage. Accompanying dependents must also be covered. **Medevac insurance** is not mandatory for grants, cooperative agreements, and host country contracts.

E322.5.3 Medical Evacuation Insurance (Medevac)

Essential procedures for Medical Evacuation (Medevac) Insurance are contained in Mandatory Reference, CIB 99-07 entitled, "Contractual Coverage for Medical Evacuation (Medevac) Services". (See Mandatory Reference, [CIB 99-07](#))

322.5.4 INSURANCE FOR OTHER THAN TRANSPORTATION OR TRANSPORTATION-RELATED SERVICES

It is the policy of USAID to require that all U.S. insurance companies have a fair opportunity to compete for non-transportation related insurance requirements that might arise under USAID direct contracts and subcontracts.

E322.5.4 Insurance for Other Than Transportation or Transportation-Related Services - N/A

322.6 Supplementary Reference

[ADS 350](#), [Supplementary Reference: SOAG Annex II, Section E.2, "Refunds"](#)

322.7 Mandatory Reference

[22 CFR 201.68](#)

[22 CFR 201.32](#)

[22 CFR 228.23](#)

- * [CIB 00-07](#)

[CIB 99-07](#)

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